

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DEREK and JENNIFER ROUSE,
individually, and as parents of N.R.,
W.R., and J.R., minors,

Plaintiffs,

-vs-

BBC AF MANAGEMENT/
DEVELOPMENT, LLC, a foreign
limited liability corporation,
BALFOUR BEATTY
COMMUNITIES, a foreign company,
and AMC WEST HOUSING, L.P., a
foreign company,

Defendants.

Case No. CIV-21-326-F

ORDER

The court is in receipt of plaintiffs' Amended Complaint. Doc. no. 55. The court, upon joint motion of the parties, previously granted plaintiffs leave to file the amended pleading to add Balfour Beatty Communities, LLC and AMC West Housing, L.P. as defendants and to plead fraud with specificity. Doc. no. 53.

This action was removed from state court to this court by defendant BBC AF Management/Development, LLC based upon the existence of diversity jurisdiction, 28 U.S.C. § 1332. A supplement to the notice of removal was filed by defendant to establish the diversity of citizenship between plaintiffs and defendant. Doc. no. 25.

The Amended Complaint, however, does not establish the citizenship of the new defendants.¹ Initially, the court notes that the Amended Complaint alleges that Balfour Beatty Communities is a Delaware corporation. But the court granted plaintiffs leave to add Balfour Beatty Communities, LLC as a defendant. The LLC designation suggests that the business entity is a limited liability company. The citizenship of a limited liability company is determined by the citizenship of all its members. *See, Spring Creek Exploration & Production Company, LLC v. Hess Bakken Investment, II, LLC*, 887 F.3d 1003, 1014 (10th Cir. 2018). The Amended Complaint must identify all members of Balfour Beatty Communities, LLC, and the citizenship of those members. If any member of Balfour Beatty Communities, LLC is itself a business entity, the Amended Complaint must trace the citizenship of that member down through however many layers there may be. *See, Gerson v. Logan River Academy*, 20 F.4th 1263, 1269 n. 2 (10th Cir. 2021). If any member is an individual, the Amended Complaint must allege the state of citizenship, as opposed to the state of residence, for that individual. However, if Balfour Beatty Communities is a corporation, as plaintiffs allege, the Amended Complaint must not only identify every state by which Balfour Beatty Communities has been incorporated, but it must also identify the state where Balfour Beatty Communities has its principal place of business. For purposes of § 1332, a corporation is a citizen of every state by which it has been incorporated and the state where it has its principal place of business. *See*, 28 U.S.C. § 1332(c)(1).

The Amended Complaint also alleges AMC West Housing, L.P. is a Delaware corporation. The L.P. designation in the caption and body of the Amended Complaint suggests the business entity is a limited partnership. The citizenship of a

¹ Section 1447(e) of Title 28 of the United States Code provides that “[i]f after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.”

limited partnership is determined by the citizenship of all its partners. Carden v. Arkoma Associates, 494 U.S. 185, 195 (1990). The Amended Complaint must identify all partners of AMC West Housing, L.P., and the citizenship of those partners. If any partner of AMC West Housing, L.P. is itself a business entity, the Amended Complaint must trace the citizenship of that partner down through however many layers there may be. *See, Gerson*, 20 F.4th at 1269 n. 2. If any partner is an individual, the Amended Complaint must allege the state of citizenship, as opposed to the state of residence, for that individual. If AMC West Housing, L.P. is a corporation, as plaintiffs allege, the Amended Complaint must not only identify every state by which AMC West Housing, L.P. has been incorporated, but it must also identify the state where it has its principal place of business.

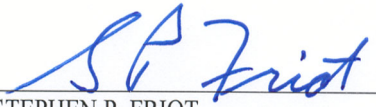
In light of the missing jurisdictional information as to the new defendants, the court concludes that the Amended Complaint should be stricken and leave to refile the Amended Complaint granted. The refiled Amended Complaint will need to include the missing jurisdictional information for the new defendants. In addition, for clarity of the record, plaintiffs must also identify in the Amended Complaint the state where they are citizens, as opposed to the state where they are residents, and identify the members of defendant BBC AF Management/Development, LLC and the citizenship of those members.² The missing jurisdictional information of the new defendants may be alleged based upon information and belief. If the missing jurisdictional information as to all parties indicates the court lacks diversity jurisdiction over the action, the action will be remanded to state court.

Accordingly, the Amended Complaint (doc. no. 55) filed by plaintiffs is **STRICKEN**. Plaintiffs are **GRANTED** leave to refile, within 14 days from the date

² The court notes the Amended Complaint mistakenly identifies defendant BBC AF Management/Development, LLC as a Delaware corporation. It has previously identified itself as a limited liability company. *See*, doc. no. 25.

of this order, an Amended Complaint, which provides the missing jurisdictional information as to all parties, as set forth in this order.

IT IS SO ORDERED this 8th day of July, 2022.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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